

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 1/8/2008.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 4-14, 16, 18-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In regard to claim 1, the limitation of the venting means being configured and dimensioned to prevent air pressure from increasing in the interior space is new matter. In regard to claim 14, the limitation of air being vent from the interior space "by allowing a substantially continuous flow of air into the cabinet" is new matter. Regarding new matter of claims 1 and 14, pages 11-12 of the Specification discloses gap 70 formed as vent means so that heated air rises and passes through the gap 70. There is nothing in the specification to support the limitation in claim 1 of preventing air pressure from increasing in the interior space (there must be changes in air pressure of the interior space for ventilation to occur). There is nothing in the specification to support the limitation in claim 14 of allowing a substantially continuous flow of air into the cabinet.

Art Unit: 3637

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 14, 16, 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14, line 2 recites that the cabinet comprising "a back portion fixedly connectable to a wall". This language would lead the examiner to believe that applicant intends to claim only the subcombination of a cabinet, and the wall is only functionally recited. This presents no problem as long as the body of the claim also refers to the wall functionally. The problem arises when the wall is positively recited within the body of the claim, such as "the vent comprises a gap formed between the cover portion and the wall". The examiner cannot be sure if applicant's intent is to merely claim the cabinet or the cabinet in combination with the wall. If applicant is required to clarify what the claim is intended to be drawn to and the language of the claim is amended to be consistent with applicant's intent. For the purpose of this examiner, the examiner is considering that the claim is drawn to the combination of the cabinet and the wall.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claims 14, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,179,144 to Abroy et al in view of US202/0046853 to Stendardo et al.

Abroy et al discloses a cabinet comprising all the elements recited in the above listed claims including a back portion 24 fixedly connectable to a wall, a cover portion 36 cooperating with the back portion 24 to form an interior space and being detachably connected to the back portion, a hinge structure 48 having a first component connected to one of the back portion 24 and the cover portion 36 and a second, complementary component connected to the other of the back portion 24 and the cover portion 36; a vent formed in the cover portion 36, said vent being defined as the gap formed by member 60 of the cover portion 36 and the back portion, such as shown in Fig 4, a water diverting plate 96 disposed below the vent and on the back portion; wherein the hinge structure includes a pair of mounting brackets formed on opposite sides of the back portion, and pivot pin engaging each of the mounting brackets, the vent comprises a gap formed between the cover portion and the wall. The different being that Abroy et al fails to disclose the air being vented from the interior space by allowing a substantially continuous flow of air into the cabinet.

Stendardo et al discloses an electrical cabinet enclosure 10 comprising a plurality of panels defining an interior space, wherein the enclosure includes overhangs to vent heat from electrical devices mounted within the enclosure, thereby providing sufficient

ventilation to prevent overheating of internal electrical components, and while meeting waterproof ratings. Therefore, it would have been obvious to modify the structure of Abroy by providing ventilation means such that sufficient ventilation of heat from electrical devices mounted within the enclosure, thereby preventing overheating of internal electrical components, as taught by Standardo, since both teach alternate conventional electrical cabinet structure, used for the same intended purpose of housing electrical devices therein, thereby providing structure as claimed.

9. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abroy, as modified, as applied to claim 14 above, and further in view of USP 4,223,965 to Palandrani.

Abroy, as modified, discloses all the elements as discussed above except for spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion.

Palandrani discloses a wall mounted cabinet comprising spacer means comprising a plurality of protrusions 19 extending outwardly from a rear surface of the back portion, such as shown in Figs 2-3, in order to facilitate mounting the cabinet to a wall, at the same time preventing water from seeping along the wall into the interior of the cabinet. Therefore, it would have been obvious to modify the structure of Abroy, as modified, by providing spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion in order to facilitate mounting the cabinet to a wall, at the same time preventing water from seeping along the wall into the interior of the cabinet, as taught by Palandrani, since both teach alternate conventional

wall mounted cabinet structure, used for the same intended purpose, thereby providing structure as claimed.

10. Claims 1, 4-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Abroy et al in view of USP 4,223,965 to Palandrani.

Abroy et al discloses a cabinet comprising all the elements recited in the above listed claims including a back portion 24 fixedly connectable to a wall, a cover portion 36 cooperating with the back portion 24 to form an interior space and being detachably connected to the back portion, a hinge structure 48 having a first component connected to one of the back portion 24 and the cover portion 36 and a second, complementary component connected to the other of the back portion 24 and the cover portion 36; a vent formed in the cover portion 36, said vent being defined as the gap formed by member 60 of the cover portion 36 and the back portion, such as shown in Fig 4, a water diverting plate 96 disposed below the vent and on the back portion; wherein the hinge structure includes a pair of mounting brackets formed on opposite sides of the back portion, and pivot pin engaging each of the mounting brackets, the vent comprises a gap formed between the cover portion and the wall. The differences being that Abroy et al does not clearly disclose spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion, wherein the venting means is configured and dimensioned to prevent air pressure from increasing in the interior space.

Palandrani discloses a wall mounted cabinet comprising spacer means comprising a plurality of protrusions 19 extending outwardly from a rear surface of the

back portion, such as shown in Figs 2-3, in order to facilitate mounting the cabinet to a wall, at the same time preventing water from seeping along the wall into the interior of the cabinet. Therefore, it would have been obvious to modify the structure of Abroy et al by providing spacer means comprising a plurality of protrusions extending outwardly from a rear surface of the back portion in order to facilitate mounting the cabinet to a wall, at the same time preventing water from seeping along the wall into the interior of the cabinet, as taught by Palandrani, since both teach alternate conventional wall mounted cabinet structure, used for the same intended purpose, thereby providing structure as claimed.

Stendardo et al discloses an electrical cabinet enclosure 10 comprising a plurality of panels defining an interior space, wherein the enclosure includes overhangs to vent heat from electrical devices mounted within the enclosure, thereby providing sufficient ventilation to prevent overheating of internal electrical components, and while meeting waterproof ratings. Therefore, it would have been obvious to modify the structure of Abroy, as modified, by providing ventilation means such that sufficient ventilation of heat from electrical devices mounted within the enclosure, thereby preventing overheating of internal electrical components, as taught by Stendardo, since both teach alternate conventional electrical cabinet structure, used for the same intended purpose of housing electrical devices therein, thereby providing structure as claimed.

Allowable Subject Matter

11. Claims 12-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571)272-

6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HVT/
April 13, 2008

/Lanna Mai/
Supervisory Patent Examiner, Art Unit 3637